

### REMARKS

Claims 1, 4, 6-8, and 12-24 are currently pending, wherein claims 1, 8, 15, 16, 23, and 24 have been amended, claims 2, 3, 5, and 9-11 are canceled, and claims 17-21 have been withdrawn. Favorable reconsideration is respectfully requested in view of the remarks presented herein below.

In paragraph 2 of the Office action ("Action"), the Examiner rejects claims 23 and 24 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 23 and 24 have been amended to correct a typographical error introduced in the previously filed amendment, more specifically, the term "layer" should have read "larger". Support claims 23 and 24 can be found on page 44, lines 12-17 of the Specification. Reconsideration and withdrawal of the rejection of claims 23 and 24 under 35 U.S.C. 112, first paragraph, is respectfully requested.

In paragraph 2 (second occurrence) of the Action, the Examiner rejects claims 1, 6, 7, 8, 14-16, and 22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0041924 to White et al. ("White") in view of U.S. Patent No. 7,324,246 to Enomoto ("Enomoto"). Applicant respectfully traverses this rejection.

In order to support a rejection under 35 U.S.C. § 103, the Examiner must establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness three criteria must be met. First, there must be some rationale to combine the cited references. Second, there must be a reasonable expectation of success. Finally, the combination must teach each and every claimed element. In the present case, claims 1, 6, 7, 8, 14-16 and 22 are patentable over the combination of White and Enomoto for at least the fact that the combination fails to disclose or suggest an image apparatus that includes a correction section which *prioritizes* the positions at which the defect has been detected based on a predetermined criteria and the predetermined criteria is determined in such a way that *the position closer to a center of the image represented by the image data is given a higher priority* as claimed.

In the Action, the Examiner asserts that Enomoto teaches the correction section prioritizes the positions at which the defect has been detected based on a predetermined criteria as claimed in as much as Enomoto discloses displaying face regions on a monitor preferably in

sequence of higher certainty that the region is a face. To support this assertion the Examiner points to column 16, lines 2-67 of Enomoto. The Examiner's assertion is unfounded for the following reasons.

Although Enomoto appears to disclose displaying face regions extracted from an image based on a predetermined criteria, the predetermined criteria is not determined such that the position closer to a center of the image represented by the image data is given higher priority as claimed. To the contrary, Enomoto specifically discloses that the predetermined criteria is based on whether or not the extracted region corresponds to a face or not. As discussed in column 16, lines 4-7 of Enomoto, "when a plurality of face regions are extracted from an image, images as many as the extracted face regions are disposed side by side and displayed in enlargement with the face regions and more preferably the eye regions disposed at the center of the image." Accordingly, "the images" in "the eye regions disposed at the center of the images" refers to the fact the extracted face regions are displayed with the eye regions centered in the displayed images. Therefore, at best, Enomoto merely discloses that it is preferable to display an image corresponding to an extracted face region with the eyes centered in the image, not prioritizing the extracted face regions based on which regions is closest the center of the original image as claimed.

In addition, as mentioned above, column 16, lines 9-16 of Enomoto discloses the sequence for displaying the extracted face regions is preferably based on the "certainty of the face regions" or the "size of the red-eye regions", not on giving the position closer to a center of the image represented by the image data a higher priority as claimed in claims 1, 8, 15, and 16.

Claims 6, 7, 14, and 22 variously depend from independent claims 1 and 8. Accordingly, claims 6, 7, 14, and 22 are patentable over White and Enomoto for at least those reasons presented above with respect to claims 1 and 8. Reconsideration and withdrawal of the rejection of claims 1, 6, 7, 8, 14-16 and 22 under 35 U.S.C. § 103(a) is respectfully requested.

In paragraph 3 of the Action, the Examiner rejects claim 4 under 35 U.S.C. § 103(a) as being unpatentable over White and Enomoto, further in view of U.S. Patent No. 6,977,676 to Sato et al. ("Sato"). Applicant respectfully traverses this rejection.

Claim 4 depends from claim 1. Therefore, claim 4 is patentable over the combination of White and Enomoto for at least those reasons presented above with respect to claim 1. Sato discloses a camera control system. However, Sato fails to overcome the deficiencies of White and Enomoto.

Since White, Enomoto, and Sato each fail to disclose or suggest an image apparatus that includes a correction section which *prioritizes* the positions at which the defect has been detected based on a predetermined criteria and the predetermined criteria is determined in such a way that *the position closer to a center of the image represented by the image data is given a higher priority* as claimed, the combination of these references cannot possibly disclose or suggest said element. Therefore, even if one skilled in the art were motivated to combine White, Enomoto, and Sato, the combination would still fail to render claim 4 unpatentable because the combination fails to disclose each and every claimed element. Reconsideration and withdrawal of the rejection of claim 4 is respectfully requested.

In paragraph 4 of the Action, the Examiner rejects claim 12 under 35 U.S.C. § 103(a) as being unpatentable over White and Enomoto, further in view of U.S. Patent No. 7,065,249 to Fushiki et al. ("Fushiki"). Applicant respectfully traverses this rejection.

Claim 12 depends from claim 8. Therefore, claim 12 is patentable over the combination of White and Enomoto for at least those reasons presented above with respect to claim 8. Fushiki discloses a system and method for image editing. However, Fushiki fails to overcome the deficiencies of White and Enomoto.

Since White, Enomoto, and Fushiki each fail to disclose or suggest an image apparatus that includes a correction section which *prioritizes* the positions at which the defect has been detected based on a predetermined criteria and the predetermined criteria is determined in such a way that *the position closer to a center of the image represented by the image data is given a higher priority* as claimed, the combination of these references cannot possibly disclose or suggest said element. Therefore, even if one skilled in the art were motivated to combine White, Enomoto, and Fushiki, the combination would still fail to render claim 12 unpatentable because the combination fails to disclose each and every claimed element. Reconsideration and withdrawal of the rejection of claim 12 is respectfully requested.

In paragraph 5 of the Action, the Examiner rejects claim 13 under 35 U.S.C. § 103(a) as being unpatentable over White and Enomoto, further in view of U.S. Patent Application Publication No. 2002/0109854 to Murray et al. ("Murray"). Applicant respectfully traverses this rejection.

Claim 13 depends from claim 8. Therefore, claim 13 is patentable over the combination of White and Enomoto for at least those reasons presented above with respect to claim 8. Murray discloses a method and apparatus for printing and/or displaying digital images. However, Murray fails to overcome the deficiencies of White and Enomoto.

Since White, Enomoto, and Murray each fail to disclose or suggest an image apparatus that includes a correction section which *prioritizes* the positions at which the defect has been detected based on a predetermined criteria and the predetermined criteria is determined in such a way that *the position closer to a center of the image represented by the image data is given a higher priority* as claimed, the combination of these references cannot possibly disclose or suggest said element. Therefore, even if one skilled in the art were motivated to combine White, Enomoto, and Murray, the combination would still fail to render claim 13 unpatentable because the combination fails to disclose each and every claimed element. Reconsideration and withdrawal of the rejection of claim 13 is respectfully requested.

The application is in condition for allowance. Notice of same is earnestly solicited. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Penny Caudle Reg. No. 46,607 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: November 24, 2009

Respectfully submitted,

By Penny Caudle  
D. Richard Anderson  
Registration No.: 40,439  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000